

# INJUNCTION GRANTED TO CURB INCENSE-BURNING

A family must limit its habit to twice a day after neighbours say joss sticks damaged their health

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A judge who yesterday granted an injunction regulating a family's incense-burning habits outside their high-rise flat in Mei Foo says the order does not curtail the right of worship in the city.


District Court Judge David Lok Kai-hong said he granted Hu Wei-hsin the injunction due to the circumstances of the case.

Hu complained that her neighbour Ma Hung-wing was polluting their common area and endangered her health while she was pregnant with her first child.

The judge also said he visited the eighth-floor corridor at the heart of the dispute and experienced different types of incense being burned in order to reach his decision.

Hu's neighbour habitually burned pungent incense in a corridor outside their high-rise, sparking the nuisance claim.

Hu said the fumes caused the premature birth of her baby, discomfort, respiratory problems, stress, headaches and sleepless nights. She had



no evidence to prove this. The baby was born two weeks early and is healthy. Ma and his wife and son have been ordered to burn incense no more than two times a day in the building's corridor, with each session only lasting 30 minutes.

"In a multicultural society like Hong Kong, we should always respect Chinese culture and the right of individuals to carry out any kind of worship or religious ceremony," Lok said. "However, if such activities con-

stitute a nuisance to neighbours, in particular if the activities are performed in the common area of a multi-storey building, such activities should not be allowed," he said. "This has nothing to do with the right to worship."

According to Lok's judgment yesterday, the Ma family placed six glowing joss sticks outside their gates at least twice a day – a tradition for 40 years.

In May last year, Hu, who has amasters degree, moved into Lai Chi Kok Bay Garden and found that her family could not put up with the incense. She became pregnant in August. They tried using wet towels to seal the door gap, hoping that it would reduce the smell but no to avail. They had also fitted a fan at the door trying to clear the smoke and called the police, but to no avail.

Later Hui Sim-mei, Ma's wife, was caught by a surveillance monitor installed by Hu sweeping incense ash and dust towards Hu's flat, which the judge ruled was also nuisance.

She was heard in the video cursing Hu and her husband, using foul language and remarks such as "return to heaven" when Hu was pregnant.

The judge described the behaviour of the Mas as irresponsible and hostile.

He stressed that his decision in allowing only a certain type of joss stick to be burned was not intended as setting a precedent. Explaining the reason for allowing only 11cm environmentally friendly joss sticks, he said the smoke and smell when burned was not serious. His decision was based on his visit to the corridor in the Mei Foo building where different incense sticks were burned.

The judge said burning of joss sticks of 16cm or longer, which were used by the Ma family, caused a "very strong" smell and "visible and serious" accumulation of smoke.

He said he had to strike a balance between the rights of both the Ma and Hu families. He said he considered factors including the acts of the defendants and the ventilation and the layout of the corridor.

Although the building's Deeds of Mutual Covenant and the residents' handbook forbid residents from placing incense stick holders and burning incense in the common areas of the building, the judge said Hu could bring legal action against the owners' corporation if it refused to ensure that the Ma family adhered to the guidelines.

**If the activities are performed in the common area ... they should not be allowed**

JUDGE DAVID LOK KAI-HONG